

# Court of Appeals, State of Michigan

## ORDER

People of MI v Shannon Gerrome Ford

Docket No. 277373

LC No. 06-002373-AR

David H. Sawyer  
Presiding Judge

William B. Murphy

Joel P. Hoekstra  
Judges

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Pursuant to MCR 7.205(D)(2), in lieu of granting the application for leave to appeal, the March 27, 2007, order of the circuit court affirming the order of the district court and the district court's order itself are VACATED and the matter is REMANDED for trial.

The district court erred in redacting paragraphs F and G of the affidavit supporting the search warrant on the ground that the statements regarding stem(s) were inaccurate because inaccuracy alone is not the measure. The statements must have been a "deliberate falsehood" or show "reckless disregard for the truth." *Franks v Delaware*, 438 US 154, 171; 98 S Ct 2674, 2684; 57 L Ed 2d 667 (1978). The court made no such finding. Furthermore, the statement must have been necessary to a finding of probable cause. *Id.*, 155-156. A single marijuana stem provides the same basis for finding probable cause as would more than one. On both of those grounds, the trial court erred in redacting paragraphs F and G. Because the information in those paragraphs, stating as it does that a stem or stems were found in the residence and that a field test showed that the stem or stems were in fact marijuana, there was sufficient probable cause to support the issuance of the search warrant. Furthermore, the court's suppression of defendant's statement to Officer Hecht was premised solely on the fact that it was the fruit of an illegal search, but the search was not in fact illegal. So, there is no remaining basis for the court's suppression of the statement. And because the dismissal of the charge was premised on the lack of evidence once the evidence seized pursuant to the search and the resulting statement were gone, but those items should not have been suppressed, the charge against defendant is reinstated, and the preliminary examination shall be completed.

The motion to file late answer is GRANTED.

We do not retain jurisdiction.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

JUL 03 2007  
Date

*Sandra Schultz Mengel*  
Chief Clerk